

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

In re

CLINTON B. HENDERSON, dba Bookstock_Us,
dba CB Henderson Construction Co. and
RENATA HENDERSON,

Joint Debtors.

RONALD SCHEIDELMAN and KHALIDA
SCHEIDELMAN,

6:09-MC-47

Movants.

DAVID N. HURD
United States District Judge

DECISION and ORDER

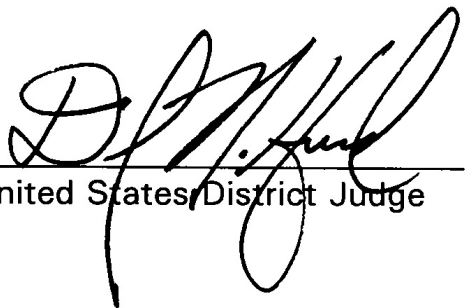
On June 8, 2009, movants filed an emergency motion to stay proceedings in Bankruptcy Case No. 08-60255 pending resolution of their appeal of the Memorandum Decision, Findings of Fact, Conclusions of Law, and Order of Hon. Diane Davis, United States Bankruptcy Judge, entered on May 27, 2009. The May 27, 2009, Order denied movants motion for recusal. Movants filed a Notice of Appeal on June 8, 2009.

In determining whether to grant a stay pending appeal of an order of the bankruptcy court, four factors must be considered: "(1) whether the movant will suffer irreparable injury absent a stay, (2) whether a party will suffer substantial injury if a stay is issued, (3) whether the movant has demonstrated a substantial possibility, although less than a likelihood, of success on appeal, and (4) the public interests that may be affected." Hirschfeld v. Board of Elections New York [City], 984 F.2d 35, 39 (2d Cir. 1993) (internal quotation omitted).

Movants have not demonstrated that they will suffer irreparable injury absent a stay. Additionally, there has been no demonstration of a possibility of success on appeal. Finally, the public interest is served by permitting the bankruptcy proceedings to continue.

Accordingly, having given due consideration to the entire record in this matter, it is ORDERED that movants' motion for a stay of Bankruptcy Case No. 08-60255 pending appeal is DENIED.

IT IS SO ORDERED.



United States District Judge

Dated: June 11, 2009
Utica, New York.